

## **REMARKS**

Claims 1-4, 12-14, 18-21, 24-68 and 71-79 are pending. Applicant hereby amends claims 1, 21, 24-26, 55, 59 and 70, cancels claims 27-34 and has added claims 80-84. Also, claims 3-4, 19, 27-54, and 57-58 were previously withdrawn and claims 5-11, 15-17, 22-23, and 69-70 were previously cancelled.

The Examiner indicated that the response to the final office action must include cancellation of non-elected claims. However, the applicant is filing this response with a Request for Continued Examination which reopens prosecution and therefore cancellation of the nonelected claims is not required.

The Examiner has rejected claims 1, 2, 12-14, 18, 20, 21, 24-26, 59-68 and 71-79 under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement and 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. The Examiner asserts that the original specification does not appear to provide support for the recitation that “the orifice is sized to spread the yolk to create the look of a fried egg having a broken yolk” and that this recitation is indefinite. The Applicants respectfully traverse these rejections, but in order to advance prosecution this language has been deleted and replaced with alternative limitations directed to the device for breaking yolks.

Furthermore, the Examiner has rejected claims 55 and 56 under 35 U.S.C. 102(b) as being anticipated by Shimizu (U.S. Pat. No.4,961,966) and under 35 U.S.C. 103(a) as being unpatentable over Dunckel (U.S. Pat. No.5,427,016) in view of any one of Davis (U.S. Pat. No.5,293,021), Glasser (U.S. Pat. No. 3,941,892) and Shimizu. The Examiner has also rejected claims 1, 2, 12-14, 21, 59-62, 64, 65, 67, 68 and 71 under 35 U.S.C. 103(a) as being unpatentable over Stearns et al. (U.S. Pat. No. 3,958,035) in view of WO 87/03171. The Examiner has also rejected claims 1, 2, 12-14, 18, 20, 59-62, 71-73 and 75-79 under 35 U.S.C. 103(a) as being unpatentable over Shimizu in view of WO 87/03171. The Examiner has also rejected claim 74 under 35 U.S.C. 103(a) as being unpatentable over Shimizu in view of WO 87/03171 and Beale et al. (U.S. Pat. Pub. No. 2003/0047838) and further in view of any one of Stearns, Stier (U.S.

Pat. No. 2,497,280) and Matter (U.S. Pat. No. 1,925,700). Finally, the Examiner has rejected claims 21 and 24-26 under 35 U.S.C. 103(a) as being unpatentable over WO 87/03171.

Applicants respectfully traverse these rejections and request reconsideration in view of the following remarks.

The Applicants traverse these rejections based upon the grounds that the cited reference or references do not show all of the limitations of the amended claims. “For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference.” *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990) “Anticipation under 35 U.S.C. § 102 (b) requires the presence in a single prior art disclosure of each and every element of a Claimed invention...” *Electro Medical Systems, S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 U.S.P.Q.2d 1017, 1019 (Fed. Cir. 1994) “[O]ne who seeks such a finding must show that each element of the Claim in issue is found, either expressly or under principles of inherency, in a single prior art reference, or that the claimed invention was previously known or embodied a single prior art device or practice.” *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 U.S.P.Q.2d 1321, 1326 (Fed. Cir. 1992).

Furthermore, “[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). Therefore, similar to meeting the burden required pursuant to 35 U.S.C. § 102 as described above, the Examiner, in order to meet the burden of a rejection pursuant to 35 U.S.C. § 103(a), must provide a showing that the references cited provide all of the limitations of the claims.

As previously suggested, the cited reference (i.e. Shimizu) fails to disclose all of the limitations found in claims 55 and 56 presented above. For example, amended claim 55 calls for an egg mold that includes a first depression including a first sloped region extending

downwardly to a planed region, and a second depression disposed within the first depression, the second depression including a second sloped region extending downwardly to a rounded region within the second depression. A mold having such a first depression and second depression produces an egg product that varies in thickness and thus appears more like a natural egg. Furthermore, the yolk may be deposited into the rounded region, resulting in an egg yolk portion that is prominently displayed to more closely resemble a natural egg.

The Shimizu mold does not teach a mold that includes: (a) a first depression that has a sloped region extending downward to a planed region, and (b) a second depression, located within the first depression, that has a sloped region extending downward to a rounded region. Shimizu includes only one depression and a recess portion 13c within that depression. See Figure 3 of the Shimizu reference. Hence the mold disclosed or suggested in Shimizu does not have the structure to produce a natural-appearing fried egg as produced when using the mold of the present application. Shimzu does not include all of the limitations of the claims and therefore the Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 55 and 56 have also been rejected under 35 U.S.C. 103(a) as being unpatentable over Dunckel taken together with any one of Davis, Glasser et al., and Shimizu. Applicants traverse this rejection. As discussed above, Shimzu does not teach a mold that includes: (a) a first depression that has a sloped region extending downward to a planed region, and (b) a second depression, located within the first depression, that has a sloped region extending downward to a rounded region. The other cited references also fail to teach these limitations. Each reference is discussed below.

Dunckel does not teach mold shapes and/or structures that are identical or equivalent to the molds claimed in the present application.

Davis teaches a container having an egg-white retention portion that encircles a central yolk retention portion, with the two portions separated by a projection. Like Shimizu, Davis fails to teach a mold that includes: (a) a first depression that has a sloped region extending downward to a planed region, and (b) a second depression, located within the first depression, that has a

sloped region extending downward to a rounded region. The egg-white retention portion and the yolk retention portion are either co-planar (Figs. 1 – 3 and 5 – 8) or the egg-white retention portion is slightly elevated relative to the yolk retention portion (Fig. 4, col. 4, ll. 52-56).

Glasser teaches a mold that includes a flat body portion and an egg yolk cavity. This mold appears to be nearly the same as the Shimizu mold. Like Shimizu, Glasser teaches a single depression with an egg-yolk cavity within the single depression. Glasser does not teach a mold that includes: (a) a first depression that has a sloped region extending downward to a planed region, and (b) a second depression, located within the first depression, that has a sloped region extending downward to a rounded region.

None of the references, alone or in combination, teach a mold that includes: (a) a first depression that has a sloped region extending downward to a planed region, and (b) a second depression, located within the first depression, which has a sloped region extending downward to a rounded region. At most, the references teach a single depression containing a recess portion or cavity.

The Examiner suggests that it is well known to provide demarcation between yolk and white portions, as taught by the cited references. However, Applicants' method includes a mold that provides more than a demarcation between a yolk and white. This is especially relevant when preparing an egg that has a broken yolk, but is desired to look like a natural fried egg. By providing a mold that includes: (a) a first depression that has a sloped region extending downward to a planed region, and (b) a second depression, located within the first depression, that has a sloped region extending downward to a rounded region, the resultant egg product varies in thickness and appears more like a fried egg. In addition to varying in thickness, the yolk may be deposited into the second depression including the rounded region, resulting in an egg-yolk portion that is prominently displayed in order to more closely resemble a fried egg. The prior art does not teach or suggest a mold structure that would vary the thickness of the product or the prominence of the egg yolk.

The Examiner has rejected claims 1, 2, 12-14, 21, 59-62, 64, 65, 67, 68 and 71 under 35 U.S.C. 103(a) as being unpatentable over Stearns et al. (U.S. Pat. No. 3,958,038) taken together with WO 87/03171. The Applicants traverse this rejection. Independent claims 1, 21, 59 and 71 have been amended to call for dropping an egg having a yolk and a white through a device comprising one or more depressions including a plurality of segments having sharp edges and/or pointed portions to rupture the yolk sac, the segments are separated therebetween and extend downward to form an opening to allow the egg to pass through. The cited references do not teach this limitation.

Stearns et al. teaches breaking egg yolks by agitating them with the whites, such as with a propeller, to form a homogeneous mix for making an omelet-type product. Stearns does not disclose or suggest a depression including a plurality of segments having sharp edges and/or pointed portions to rupture the yolk sac. However, if a depression with an opening is present, such as an opening through which eggs are added to the mixer, it would not be designed to spread the yolk to create the look of a fried egg having a broken yolk.

WO 87/03171 teaches a pin or equivalent for breaking a yolk, which has been separated from the egg white (p. 17, ll. 8-15). Therefore the whole egg (the yolk and the white) are not dropped through the apparatus in WO 87/03171. Furthermore, the apparatus disclosed in WO 87/03171 does not provide one or more depression(s) that include segments that (a) are separated from each other, (b) have sharp edges and/or pointed portions to rupture the yolk sac, and (c) extend downward to form an opening that allows the egg to pass through; the segments and opening of such a structure would spread the yolk to interact with the white creating the look of a fried egg having a broken yolk.

The Examiner states that it would have been obvious to incorporate the pin of WO 87/03171 into Stearns in order to facilitate easier mixing of the yolks and whites. However, the claimed depression structure of the present application provides for an egg having the look of a fried egg and therefore such mixing of the yolk and white is not desirable.

Claims 1, 2, 12-14, 18, 20, 59-68, 71-73 and 75-79 have also been rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu taken together with WO 87/03171 and further in view of any one of Stearns et al., Stier, and Matter. The Applicants traverse this rejection.

As discussed above, Stearns and WO 87/03171 do not teach dropping an egg having a white and a yolk through a device having one or more depressions including segments that (a) are separated from each other, (b) have sharp edges and/or pointed portions to rupture the yolk sac, and (c) extend downward to form an opening that allows the egg to pass through. Such a device facilitates the desired spreading the yolk and creates the look of a fried egg having a broken yolk. The other cited references also do not teach or suggest this limitation. Shimizu, Stier, and Matter teach egg molds, but do not teach dropping an egg through a device having one or more depressions including a plurality of segments having sharp edges and/or pointed portions to rupture the yolk sac. Therefore, these references also fail to meet this limitation of the claims.

The Examiner has rejected claim 74 under 35 U.S.C. 103(a) as being unpatentable over Shimizu (U.S. Pat. No. 4,961,966) taken together with WO 87/03171 and Beale et al. (U.S. Pat. Pub. No. 2003/0047838) and further in view of any one of Stearns et al. (U.S. Pat. No. 3,958,038), Stier (U.S. Pat. No. 2,497,280), and Matter (U.S. Pat. No. 1,925,700). The Applicants traverse this rejection.

Claim 74 depends from claim 72, which depends from claim 71. Therefore, claim 74 claims a device that comprises a plurality of depressions including a plurality of segments having sharp edges and/or pointed portions to rupture the yolk sac, the segments are separated therebetween and extend downward to form an opening to allow the egg to pass through. As discussed above, neither Shimizu, WO/03171, Stearns, Stier or Matter teach dropping an egg having a yolk and a white through a device having one or more depression(s) that include segments that (a) are separated from each other, (b) have sharp edges and/or pointed portions to rupture the yolk sac, and (c) extend downward to form an opening that allows the egg to pass through. Beale likewise does not teach this limitation.

The Examiner has rejected claims 21 and 24 – 26 under 35 U.S.C. 103(a) as being anticipated by WO 87/03171. The Applicants traverse this rejection.

As discussed above, WO 87/03171 teaches a pin or equivalent for breaking a yolk, which has been separated from the egg white (p. 17, ll. 8-15). Therefore the yolk and the white are not dropped through the apparatus in WO 87/03171, and the apparatus does not provide a device having one or more depressions one or more depression(s) that include segments that (a) are separated from each other, (b) have sharp edges and/or pointed portions to rupture the yolk sac, and (c) extend downward to form an opening that allows the egg to pass through. Therefore, WO 87/03171 does not disclose or suggest all of the limitations of claims 21 and 24 – 26.

In view of the failure of the cited references to disclose or suggest all of the limitations of the claims, the Applicants respectfully request that the Examiner withdraw the rejections of the above-identified claims. It is further submitted that this application is in condition for allowance and therefore, favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

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